



POLICE DEPARTMENT

June 10, 2021

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In the Matter of the Charges and Specifications :

- against - :

Sergeant Fernando Colongonzalez :

Tax Registry No. 948196 :

Fleet Services Division :

Case No.

2019-20016

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Kathryn Falasca, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Roger Blank, Esq.
136 Madison Avenue, 6th Floor
New York, NY 10016

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Said Sergeant Fernando Colongonzalez, while off-duty and assigned to the 113 Precinct, on or about January 20, 2019, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Sergeant Colongonzalez damaged property belonging to a person known to the Department.

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT
GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on April 29, 2021. Respondent, through his counsel, pleaded guilty to the subject charge and testified in mitigation of the penalty. Respondent also called his wife, Nancy Camacho, as a witness. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find that some mitigation is appropriate, and recommend the following penalty: the forfeiture of thirty (30) days already served on suspension (with five (5) days previously served being restored to Respondent), the forfeiture of ten (10) vacations days (for a total of forty (40) penalty days), and one-year dismissal probation.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent has pleaded guilty to damaging the cell phone of his wife during an off-duty domestic dispute at their [REDACTED] home in the early morning hours of January 20, 2019. By way of background, Respondent testified that he joined the Department in 2009 because he wanted to serve his community, to make it better. Previously, he had joined the Marines in 2004, where he currently is serving as a staff sergeant. Respondent has completed multiple tours of duty, in the combat zones of Iraq, Afghanistan, and Iran; a copy of recognitions he has received, including

narrative descriptions of two medals he was awarded, was admitted into evidence as Respondent Ex. C. Respondent has engaged the enemy in combat, been on the receiving end of attacks and explosions, and had friends killed in combat. These experiences have taken a toll on Respondent, who was suffering severe Post-Traumatic Stress Disorder ("PTSD") symptoms in the time leading up to this incident. He experienced flashbacks and nightmares, felt extreme rage at times, and became detached from his family. Respondent began drinking a lot and self-medicating to help himself sleep. Nancy Camacho, Respondent's wife, similarly testified that around 2011, she noticed dramatic changes in Respondent's personality, "a complete 180." He became distant, less affectionate toward his family, and was prone to fits of rage and irritability. (Tr. 22, 24-32, 36, 66-67, 82-85)

In this context, the events of January 20, 2019 unfolded. Respondent and Camacho provided accounts of the incident that were essentially consistent. Earlier that day, Respondent attended a military function honoring a Korean War veteran. Afterward, he went out to a restaurant with several Marine colleagues. According to Respondent, he drank a glass of wine at the reception, and then four or five beers over a seven-to-eight hour period, but he was not drunk. While at the restaurant, he exchanged a number of texts and calls with his wife, in which they argued and cursed each other because his wife had been informed he was dancing with another woman. Upset by the accusation, Respondent returned home to resolve the disagreement, but the entrance door was locked and he did not have his key. Before going to bed, Camacho had locked the doors and turned on the alarm; she maintained that she did so for her general safety, and not because of any concerns regarding Respondent. It was a cold, rainy night, and Respondent went into a rage: he picked up a piece of wood and started smashing doors and windows to try to gain entry into the house. He also retrieved from his car a ceremonial knife he had received that day

and used it on the door and window. Respondent finally was able to break open the kitchen window, which triggered the security alarm; he returned the knife to the car and entered the home. (Tr. 33-38, 56-62, 88-90, 102-03)

Once inside, Respondent went to the bedroom; his wife had just entered the room with their four-month-old baby, placed the baby in the crib, and locked the door. Respondent was screaming and Camacho was frightened, even though he "never, ever hit me. He never hurt me." Respondent kicked open the bedroom door, and asked his wife, "What is wrong with you? We want this marriage to work." When Respondent kicked open the door, a piece of wood flew off the door toward the crib, but did not strike the child. Camacho went upstairs with the baby, and Respondent followed her to the bedroom of their other children, who were age two and four at the time. Camacho placed the baby into the crib. When Respondent entered, he observed her on the phone, and thought she must be complaining about him to her mother, as she often did; Camacho was actually on the phone with a 911 operator, but she did not tell Respondent she was calling 911, and she was whispering into the phone. Respondent "slapped" the phone from her hand, knocking it to the floor, and causing the screen to crack. Police arrived within seconds [REDACTED]

[REDACTED]
[REDACTED] (Tr. 38-40, 55, 62-65, 80, 90-97, 104-19, 124, 126-27)

Subsequent to the incident, Respondent began seeing a Department psychiatrist, who he continues to meet with once a month. Respondent testified that he attended domestic violence counseling for six months, anger management counseling, and Department-mandated insomnia therapy as well. In September of 2020, Respondent was referred by the NYPD psychiatrist to the Department of Veterans Affairs ("VA"), and has been receiving additional treatment through a VA medical center since then. A progress report from a social worker at the center, dated

November 20, 2020, notes that Respondent was diagnosed with chronic PTSD, as well as traumatic brain injury. The report states that Respondent is "actively involved in treatment," developing skills to "manage his anger and cope effectively." (Resp. Ex. A) An updated progress report dated April 27, 2021 confirms that Respondent is participating in bi-weekly psychotherapy sessions at the center, and has made "significant progress" in managing his symptoms and life stressors. (Resp. Ex. B) (Tr. 41-46, 66-73)

Respondent testified that this treatment has helped "tremendously," [REDACTED]
[REDACTED] He has learned techniques to help him stay grounded and remain calm, with his family and with work. His relationship with his wife and children has improved and been more open. He still has anxiety, but not to the point where he is making irrational decisions. Respondent acknowledged that he "really put [his] wife and kids through a lot," and "deeply regrets" his behavior during this incident. (Tr. 47-50)

Similarly, Camacho testified that since Respondent has been receiving treatment, there has been a "vast improvement" in his behavior. He has become much more engaged with his family, and they are happy together. She acknowledged that Respondent is not 100 percent better, but, with the treatment [REDACTED] he has been able to manage things more effectively. (Tr. 99-101)

PENALTY

In order to determine an appropriate penalty, this tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including any aggravating and mitigating factors established in the record. Respondent's employment history also was examined (*See* 38 RCNY § 15-07). Information from

Respondent's personnel record that was considered in making this penalty recommendation is contained in an attached memorandum. Respondent was retroactively appointed to the Department on January 14, 2009. He has no prior disciplinary record.

This incident began when Respondent became upset with his wife for confronting him about dancing with another woman. Respondent admitted that he had consumed a glass of wine and four or five beers that night. Camacho testified that she could not tell for certain whether he was drunk; however, she conceded that in her 911 call, she stated that he had been drinking, and said the same thing in a phone interview with an investigating sergeant later that morning. As such, it is reasonable to conclude from the credible evidence that alcohol consumption was a factor in this incident.

Once inside the home, Respondent created a risk of harm to a child when he kicked open the door of the bedroom where Camacho was with their four-month old baby. A piece of wood flew off the door toward the crib. Fortunately, no one was hurt, but the risk of harm was unacceptable. Respondent then followed Camacho and the baby upstairs to the bedroom of their two other young children, and slapped the phone from her hand, causing damage to the phone. Police officers arrived almost immediately, putting an end to an extremely troubling situation, for which there must be appropriate accountability.

Counsel for Respondent argues that the appropriate penalty here is the forfeiture of thirty (30) days previously served on suspension.¹ He suggests that Respondent's behavior was out of character, "a product of an injured brain and an injured psyche." Counsel emphasizes that Respondent has dedicated his life to this country and to public service, to the detriment of his

¹ Respondent previously served thirty-five (35) days on pre-trial suspension. Counsel for Respondent correctly points out that five (5) of those days should be restored to Respondent pursuant to Section 14-115 of the Administrative Code of the City of New York.

own health. Respondent "deeply regrets" his actions during this incident, and has taken steps to deal with his issues, including learning techniques to help keep him grounded.

The Department Advocate recommends 45 penalty days, one-year dismissal probation, and whatever continued counseling is appropriate. According to the Disciplinary Guidelines, misconduct involving a non-physical act of domestic violence (which includes the destruction of property), where alcohol is a factor, carries a presumptive penalty of 30 penalty days and dismissal probation, as well as other conditions, such as counseling, where deemed appropriate. Additionally, where there are aggravating factors, such as a child being present, and there is a reasonable risk of harm to the child, the forfeiture of an additional 15 penalty days is warranted, for a total of forty-five (45) penalty days.

In light of the dangerous lack of control exhibited by Respondent during this incident, a period of monitoring is warranted. However, given Respondent's acceptance of responsibility, and the remedial actions he has taken since the incident to deal with his PTSD, which resulted from his time serving with the Marines overseas, some mitigation of the forty-five (45) penalty days is appropriate. In addition to the documentation and testimony provided by Respondent, his wife, the victim in this case, testified credibly regarding the hard work Respondent has put in to manage his symptoms, and expressed that Respondent has shown "vast improvement." More than two years have passed without incident, and the family is living together happily.

Taking into account the totality of the facts and circumstances in this matter, I recommend that Respondent forfeit thirty (30) days already served on pre-trial suspension, that five (5) suspension days previously served be restored to him, that Respondent forfeit an additional ten (10) vacation days (for a total of forty (40) penalty days), and that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in

abeyance for a period of one (1) year pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

SEP 22 2021

**DERMOT SHEA
POLICE COMMISSIONER**